

FILED 12 DEC 08 09:11 AM JDC:JRP

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

GEORGE BELLEAU,
Plaintiff,

No. CV 05-872-PK

ORDER ADOPTING MAGISTRATE JUDGE'S
FINDINGS & RECOMMENDATION

v.

JO ANNE B. BARNHART,
Commissioner of Social Security
Defendant.

MOSMAN, J.,

On November 8, 2006, Magistrate Judge Papak issued Findings and Recommendation ("F&R") (#29) in the above-captioned case recommending the Commissioner's decision should be reversed and the case be remanded for the calculation and award of benefits pursuant to sentence four of 42 U.S.C. § 405(g). No objections were filed.

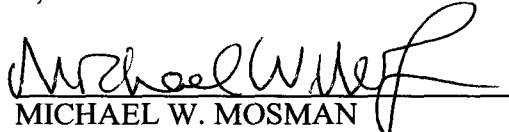
In conducting my review of the F&R, I apply the following standard. The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is required to make a *de novo* determination of

those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, the court is free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

After reviewing the F&R and relevant materials, the F&R is ADOPTED without modification. Accordingly, the Commissioner's decision is reversed and the case is remanded pursuant to sentence four of 42 U.S.C. § 405(g) for the calculation and award of benefits.

IT IS SO ORDERED.

DATED this 5th day of December, 2006.


MICHAEL W. MOSMAN
United States District Court